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FEDERAL COMMUNICATIONS COMMISSION

[DA 18-1108]

Incentive Auction Task Force and Media Bureau Announce Settlement Opportunity for Mutually Exclusive Displacement Applications Filed During the Special Displacement Window

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission's Incentive Auction Task Force and Media Bureau announce that certain displacement applications filed during the Special Displacement Window by low power television, TV translator, and analog-to-digital replacement translator stations that were displaced by the incentive auction and repacking process were deemed to be mutually exclusive. The document provides a list of mutually exclusive applications and announces a settlement period opening October 30, 2018 and closing January 10, 2019 at 11:59 pm ET.

DATES: The settlement period will open October 30, 2018 and close on January 10, 2019 at 11:59 pm ET.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, Shaun.Maher@fcc.gov, (202) 418-2324, or Hossein Hashemzadeh (technical), Hossein.Hashemzadeh@fcc.gov, (202) 418-1658.

SUPPLEMENTARY INFORMATION: On February 9, 2018, the Incentive Auction Task Force and the Media Bureau announced a displacement application filing window for low power television (LPTV), TV translator, and analog-to-digital replacement translator (DRT) stations

(referred to collectively as “LPTV/translator stations”) that were displaced by the incentive auction and repacking process (Special Displacement Window). The filing window was open from April 10, 2018, through June 1, 2018. The Commission received over 2,100 displacement applications during the Special Displacement Window.

Appendix A of document DA 18-1108 lists all displacement applications received in the Special Displacement Window that are mutually exclusive with other applications. Parties with applications in the mutually exclusive groups listed in Appendix A may resolve their mutual exclusivity by unilateral engineering amendment, legal settlement, or engineering settlement during a settlement period beginning today, October 30, 2018, and ending at 11:59 pm ET, January 10, 2019.

The applications listed in Appendix A are subject to the Commission’s competitive bidding procedures unless their mutual exclusivity is resolved. The Media Bureau will withhold further action on the mutually exclusive proposals listed in Appendix A pending submission of settlement agreements or engineering amendments to resolve mutual exclusivity prior to the close of the settlement period. Thereafter, the Wireless Telecommunications and Media Bureaus will announce an auction date and propose auction procedures for the remaining mutually exclusive applications.

Unilateral Engineering Amendments. Applicants may resolve their mutual exclusivity by filing an engineering amendment to their application. An amendment that does not implicate the application of another station may be filed by the station during the settlement period without coordination with any other entity. All such amendments must be submitted by filing an amended FCC Form 2100 – Schedule C in the Media Bureau’s Licensing and Management System (LMS) by 11:59 pm ET on January 10, 2019. Engineering amendments submitted by

applicants to unilaterally resolve their mutual exclusivity must be minor, as defined by the applicable rules, and must not create new mutual exclusivities or application conflicts.

Legal Settlements. Applicants may also resolve their mutual exclusivity through a legal settlement that provides for the dismissal of one or more of the application(s) in their mutually exclusive group. Such agreements must be submitted for Commission approval. Parties submitting a legal settlement for approval must ensure that their agreements comply with the provisions of Section 311(c) of the Communications Act of 1934, as amended, and the pertinent requirements of Section 73.3525 of the Commission's rules, including, *inter alia*, the settlement reimbursement restrictions. Parties filing a request for approval of settlement agreement must include a copy of their agreement and: (1) a statement outlining the reasons why such agreement is in the public interest; (2) a statement that each party's application was not filed for the purpose of reaching or carrying out such agreement; (3) a certification that neither the dismissing applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; (4) a statement outlining the exact nature and amount of any consideration paid or promised; (5) an itemized accounting of the expenses for which it seeks reimbursement; and (6) the terms of any oral agreement relating to the dismissal or withdrawal of its application.

Requests for approval of settlement agreement and the above-outlined documents required by Section 73.3525 must be submitted in the form of an amendment to each party's pending application in LMS by 11:59 pm ET on January 10, 2019.

Engineering Settlements. Applicants may also enter into a settlement agreement to resolve their mutual exclusivity by means of an engineering solution. As with unilateral engineering amendments, engineering amendments submitted in conjunction with a settlement

must be minor, as defined by the applicable rules, and must not create new mutual exclusivities or application conflicts. Such settlements may include proposing channel sharing as means to resolve their mutual exclusivity. Engineering settlement agreements must also be filed with the Commission for approval and must include the documentation required by Section 73.3525 outlined above.

Requests for approval of engineering settlement agreements, accompanying documentation, and corresponding technical amendments must be submitted in the form of an amendment to each party's pending application in LMS by 11:59 pm ET on January 10, 2019. In the case of channel sharing settlements, the proposed sharee station shall file to modify its current license, specifying the technical parameters in the proposed host station's displacement application and request that its displacement application be dismissed upon grant of the channel sharing.

In the case of legal and engineering settlements, the parties should endeavor, wherever possible, to resolve their mutual exclusivity through minor engineering amendments, as defined by the applicable rules. However, applicants that are unable to resolve their mutual exclusivity through a minor engineering amendment may, as part of their legal or engineering settlement, amend their application(s) to propose a new available channel. The new channel proposal may not create a new mutual exclusivity or conflict with any other application previously-filed in the Special Displacement Window.

Federal Communications Commission.

Barbara Kreisman,
Chief,
Video Division,
Media Bureau.

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